

Department of the Army, DoD

§ 555.4

number of the case in which it reposes in the Memorial Display Room at the Amphitheater at Arlington National Cemetery.

[45 FR 80524, Dec. 5, 1980, as amended at 51 FR 19708, May 30, 1986; 51 FR 43742, Dec. 4, 1986]

PART 555—CORPS OF ENGINEERS, RESEARCH AND DEVELOPMENT, LABORATORY RESEARCH AND DEVELOPMENT AND TESTS, WORK FOR OTHERS

Sec.

555.1 Purpose.

555.2 Applicability.

555.3 References.

555.4 Policy.

555.5 Terms of providing reimbursement for work performed.

555.6 Authority.

555.7 Submission of technical proposals.

555.8 Program documentation.

555.9 Reporting requirements for work in support of DOE.

555.10 Coordination requirements.

APPENDIX A TO PART 555—DIRECTOR OF DE- FENSE RESEARCH AND ENGINEERING

AUTHORITY: 10 U.S.C. 3036; 22 U.S.C. 2357; 22 U.S.C. 2421; 31 U.S.C. 686; 42 U.S.C. 4221-4225.

SOURCE: 45 FR 32302, May. 16, 1980, unless otherwise noted.

§ 555.1 Purpose.

This regulation defines and establishes policies and procedures applicable to the performance of research and development and tests at Corps of Engineers laboratory installations for other governmental and private agencies and organizations.

§ 555.2 Applicability.

This regulation applies to the U.S. Army Engineer Waterways Experiment Station (WES), the U.S. Army Construction Engineering Research Laboratory (CERL), the U.S. Army Engineer Topographic Laboratories (ETL), the U.S. Army Coastal Engineering Research Center (CERC), the U.S. Army Cold Regions Research and Engineering Laboratory (CRREL), the U.S. Army Facilities Engineering Support Agency (FESA), the U.S. Army Corps of Engineers Water Resources Support Center (WRSC).

§ 555.3 References.

- (a) AR 10-5.
- (b) AR 37-27.
- (c) AR 70-1.
- (d) ER 1-1-6.
- (e) ER 1-1-7.
- (f) ER 70-1-5.
- (g) ER 70-1-10.
- (h) ER 1110-1-8100.
- (i) ER 1110-2-8150.
- (j) ER 1140-2-302.
- (k) ER 1140-2-303.

§ 555.4 Policy.

(a) The policies and procedures covered herein extend and supplement the performance of work for other Federal Agencies authorized in ER 1140-2-302, and services for State and local governmental units authorized in ER 1140-2-303, and the policy set forth by the Secretary of Defense in appendix A.

(b) Subject to the authority limitations contained in § 555.6 of this part, research and development and tests may be performed for other agencies of the Federal Government, State and local governments, foreign governments and private firms under the following conditions:

(1) The work is performed on a cost reimbursable basis; or on a cooperative basis with the Department of Energy (DOE), utilizing the resources of both DOE and the Corps; or as a part of direct funded programs for the Army Materiel Development and Readiness Command (DARCOM) or the Defense Mapping Agency (DMA), as provided for in §§ 555.6(a)(1), 555.6(a)(2), 555.7, and 555.9 of this part.

(2) Performance of the work will not interfere with performance of services essential to the mission of the Corps.

(3) Performance of the work will not require an increase in the permanent staff of the facility.

(4) Performance of the work will not require expansion of normal facilities.

(5) The work is within the scope of authorized activities of the laboratory at which the work is to be performed.

(6) Performance of the work will not be adverse to the public interest.

(7) Work will not be performed for foreign government or private firms unless it is firmly established that other laboratory facilities capable of

§ 555.5

performing the services are not available, or because of location or for other reasons it is clearly impractical to utilize other laboratory services.

(8) Prior to performing any research and development or tests for private firms, CE laboratories will obtain a written certification from such firms stating that the results of the work to be performed will not be used in litigation or for promotional purposes.

§ 555.5 Terms of providing reimbursement for work performed.

(a) *Federal Agencies.* Reimbursement for work for the Department of Defense, the Department of the Army, and other Federal Agencies will be in accordance with the procedures prescribed in AR 37-27.

(b) *Private firms and Foreign Governments.* Funds to cover the total estimated cost of the work or an initial increment of the estimated cost based on an approved schedule of payment will be deposited with the installation performing the work before any obligations or expenses in connection with the work are incurred; and when funds are being deposited on an approved schedule, no obligations or expenses will be incurred in connection with the work in excess of funds on deposit. Charges shall include a surcharge of 15% of all applicable costs, except under the following conditions:

(1) When the final product will directly contribute to planning, design, research, or construction activities in which Federal funds are involved by grant or otherwise.

(2) Where an exception is granted based on a direct benefit to the Government. Adequate justification, outlining the direct benefits which are expected to accrue to the Government, will be forwarded to HQDA (DAEN-RD) WASH DC 20314, for review and approval prior to deletion of the surcharge.

(c) *State and Local Governments.* Work for State and local governments will be performed only to the extent that cash has been received and deposited with the U.S. Treasury in advance of actual expenditures. When the work for State and local governments is to be performed as part of an authorized Civil Works Project, reimbursement may be made in annual installments during

32 CFR Ch. V (7-1-09 Edition)

the period of performance in accordance with Section 40 of the Water Resources Development Act of 1974.

§ 555.6 Authority.

The following delegations of authority to perform research and development and tests apply.

(a) *Major Corps of Engineers Research and Development Laboratories.* The major Corps of Engineers research and development organizations are identified as WES, CERL, ETL, CERC, and CRREL. While not major CE R&D Laboratories, FESA, IWR, and HEC are responsible for performance of specific R&D functions.

(1) Subject to the provisions of § 555.8 of this regulation, the Commanders and Directors of WES, ETL and CRREL are authorized to perform direct funded work for DARCOM and DMA in accordance with the applicable memorandums of understanding.

(2) Subject to the provisions of §§ 555.7 and 555.9, the Commanders and Directors of CERL, CRREL, WES and FESA, for specific research and development functions, are authorized to perform work for DOE in accordance with the applicable memorandum of understanding.

(3) Except as provided for in paragraphs (a) (5) and (6) of this section, the Commanders and Directors of WES, CERL, CERC, CRREL, ETL and FESA are authorized to perform reimbursable work without OCE prior approval for Army agencies, Federal, State and local governmental agencies where the total estimated cost of each request for research and development or test is \$50,000 or less. The Research and Development Office will be advised of each request for research and development or test having an estimated cost exceeding \$20,000 (excluding cement sampling and testing work covered in § 555.6(a)(5) herein). Reimbursable research and development and test work for which the cost is estimated to be in excess of \$50,000 will not be initiated until authorization is received. Written requests for authorization to conduct work beyond the \$50,000 limit and notification of all scheduled work costing between \$20,000 and \$50,000 shall be submitted to DAEN-RD. These requests

Department of the Army, DoD

§ 555.9

should accompany the technical proposal copy required by § 555.7(a) herein. It should include an explanation of the proposed work including how the work complements or impacts on-going research.

(4) Except as provided for in § 555.6(a)(5), the Commanders and Directors of WES, CERL, CERC, CRREL, ETL and FESA are delegated authority to perform reimbursable research and development for U.S. private firms and foreign governments when the total estimated cost of each request for research and development or test is \$20,000 or less. Approval is required when estimated costs exceed this authority. Written requests for approval shall be addressed to DAEN-RD.

(5) Corps R&D Laboratories are authorized to participate in the Department of Defense Technology Transfer Consortium. Participation in and effort undertaken to adapt existing technology or on-going research for transfer to the civil sector as a result of participation in this consortium shall be subject to the provisions of appendix A.

(6) The Director of WES is authorized to perform sampling and testing of cement and pozzolan for Federal, State, and local governmental agencies without limitation on cost. Approval is required prior to performance of sampling and testing of cement and pozzolan for private firms and foreign governments when the total estimated cost of sampling and testing services exceeds \$2,500. Requests for approval shall be addressed to DAEN-RD.

(7) The Director of CERL is authorized to perform compliance testing of paint for Federal, State and local governmental agencies without limitation on cost.

§ 555.7 Submission of technical proposals.

(a) Corps of Engineers research and development laboratories are authorized to submit technical proposals directly to other Federal agencies covering proposed work in their assigned fields except that proposals submitted to DMA must be submitted through DAEN-RD for approval. Proposals for cooperative effort projects under the DOD-DOE Memorandum of Understanding utilizing DOD and DOE re-

sources, will be forwarded to DAEN-RD for securing prior approval from the DA and DOD Program Coordinators. Copies of proposals which exceed the delegation of authority contained in this ER will be submitted to the Chief of Engineers marked for the attention of DAEN-RD.

(b) The above authority for direct submission of technical proposals does not include authority to perform work when proposals are accepted if the estimated cost exceeds the limits stated before. Authority to proceed will be as outlined in § 555.6.

§ 555.8 Program documentation.

Program documentation will be submitted in accordance with instructions provided by the sponsoring agency with two copies to HODA (DAEN-RD) WASH DC 20314.

§ 555.9 Reporting requirements for work in support of DOE.

The following reports are to be submitted to HODA with a copy to Commander and Director, CERL. CERL has been assigned the responsibility of Principal Laboratory for Energy R&D.

(a) All executed agreements subordinate to the DOD-DOE Memorandum of Understanding will be reported to DAEN-RD for forwarding to DA and DOD Program Coordinators within 20 days of their consummation.

(b) Reports analyzing each agreement and the DOD-DOE Memorandum of Understanding will be prepared as a "Report on the Department of Defense—Department of Energy Interagency Agreement", Report Control Symbol DD-M(SA)1511 and forwarded to DAEN-RD within 20 days after the end of the second and fourth quarters each fiscal year. Reports are to be prepared in accordance with the procedures prescribed in DEPPM, No. 78-8. In addition, informal reporting of other cooperative work with DOE not falling under the MOU, will also be reported at those times.

(c) Notifications of non-compliance. DAEN-RD should be promptly notified if the Corps component or DOE fail to comply with the terms of the DOD-DOE Memorandum of Understanding or subordinate agreements. This notification shall include:

(1) A brief statement of the problem.
 (2) Nature of corrective action proposed.

(3) Any recommended action for the DOD Program Coordinator.

§ 555.10 Coordination requirements.

All reimbursable work accepted by a laboratory which falls into a category for which a Principal Laboratory has been designated by DAEN-RD, will be reported to the designated POC in the Principal Laboratory, with a copy of the notification to DAEN-RD.

APPENDIX A TO PART 555—DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

JUNE 14, 1974.

MEMORANDUM FOR ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS (R&D)

Subject: Non-Defense Work in DoD Labs and R & D Facilities.

The Deputy SECDEF, in his memorandum of 21 January 1972 to the Secretaries of the Military Departments, on the above subject, (enclosure 1), outlined broad policy considerations for the DoD Laboratory Consortium formed to coordinate non-defense work being performed by them for other government organizations. In order to establish more precise guidelines for the Consortium, an operating policy has been developed (enclosure 2) which establishes criteria for Consortium membership and the type of work that may be undertaken. Also, the following additional constraints are placed upon the operation of this Consortium:

- The expenditure of in-house effort in any one laboratory shall be limited to 3% of the professional man-years at that laboratory unless expressed approval of the parent Military Department is granted to exceed this limit.
- The DoD commitment to support the brokerage function at the National Science Foundation shall not exceed two man-years per year through FY 76, subject to the continued willingness of the Military Departments to absorb the costs.

Malcolm R. Currie.

January 21, 1972.

Memorandum for Secretaries of the Military Departments Director of Defense Research and Engineering Assistant Secretary of Defense (Comptroller).

Subject: Non-Defense Work in DOD Laboratories and R&D Facilities Civil government agencies are expressing an increased interest in the application of defense and aerospace technology to the solution of problems in the civil sector. Included in this interest is the desire to exploit the technological expertise which

exists in our DOD laboratories for the solutions of domestic problems. Separate and distinct from work done for defense oriented agencies such as AEC and NASA, our DOD laboratories have, for many years, performed selected projects for other agencies upon request. Recently, fifteen of these laboratories have formed a consortium for the purpose of coordinating the non-defense work being performed by them for other government organizations. Although the level of effort is a very small percentage in these laboratories at the present time, the aggregate can have a substantial beneficial impact on domestic programs.

It is generally conceded that the most efficient transfer of technology occurs when the adaptation of a technology to a new purpose is carried out by the team which carried out the original development. Recognizing this, the *Federal Council on Science and Technology (FCST)* has approved a "Policy for Expanded Interagency Cooperation in Use of Federal Laboratories" (attached). I endorse the spirit and intent of this policy.

The Military Services are encouraged to participate in this endeavor consistent with mission and legislative constraints. The level of effort in any laboratory is the prerogative of the cognizant Military Department which may, in turn, issue more detailed policy guidance as appropriate. Any Military Department policy shall be subject to the following considerations:

(a) *The level of effort of the work undertaken shall be such that it does not impede the accomplishment of the missions of the Military Services and the defense laboratories.*

(b) *The projects selected for non-defense work shall be compatible with the technological capability of the laboratory performing the work.*

(c) Projects may be undertaken in support of federal, state and local government organizations. *Non-defense work will be performed for the private industrial sector only on an exception basis.*

(d) *The full costs of projects undertaken shall be supported by transfer of funds through formal written agreements.*

(e) *Jointly sponsored projects are permitted when there is also a direct application to a Military requirement.* The commitment of funds and resources to joint programs shall be commensurate with the interest of each agency in the project.

The Assistant Secretary of Defense (Comptroller) shall explore with the Office of Management and Budget means for providing relief from any imposed manpower constraints to the extent of the DOD participation in non-defense work.

OPERATING POLICY OF THE DEPARTMENT OF
DEFENSE TECHNOLOGY TRANSFER CONSORTIUM

Purpose—The purpose of this policy is to establish the basic framework and direction of the Department of Defense (DOD) Technology Transfer Consortium.

Background—The DOD currently funds approximately half of the total Federal expenditure for R&D. Civil government agencies are expressing an increased interest in the exploitation of defense technology for the solution of problems in the civil sector. The Military Departments have been encouraged to cooperate in this endeavor, subject to considerations promulgated by the Secretary of Defense.

Consortium Purpose—The DOD Laboratories are a source of technology for the solution of these civil sector problems which are amenable to technological solutions. The primary role of the in-house laboratories is to provide a research and development base for the development of systems required to fulfill the national security mission of the DOD. However, these laboratories can serve a vital secondary role in the adaptation of technology to other fields and areas of need to the extent that it does not adversely impact on the primary DOD mission. A consortium of DOD Laboratories is formed for the purpose of coordinating interactions with other Federal Agencies and technology users at federal, state, and local level, and of coordinating the efforts in this endeavor. The technology transfer consortium is an association of DOD Laboratories working together through an informal affiliation. The main thrust of the consortium activity is through the individual and cooperative efforts of the laboratories involved, with an emphasis on the transfer and adaptation of technology through person-to-person mechanisms.

Criteria for Laboratory Consortium Membership. The following criteria for the participation of a DOD Laboratory in Consortium activities shall apply:

- The participation of any laboratory shall be undertaken with the full knowledge of the parent Military Department and the director or commander of the laboratory.
- For each participating laboratory an individual shall be designated by name to represent that laboratory to the consortium, and to coordinate the technology transfer activities of that laboratory. Procedures should be adopted within each laboratory to preclude the dilution of the efforts of middle and top level management by their involvement in the administrative aspects of the technology transfer effort.
- Any laboratory may withdraw from the Consortium by notifying the Consortium Chairman of this intent.

Criteria for Conduct of Work—It is the view of the Consortium that the civil sector

should rely on the private enterprise system to provide those services which are reasonably and expeditiously available through ordinary business channels. The laboratories shall attempt to provide a supplemental resource that is not technically available or that is obtainable only at an excessive cost. Such services shall not supplant existing private or industrial resources but are offered to enable other Federal agencies, State and local governments to avoid unnecessary duplication of special service functions.

The following criteria shall apply for the conduct of work undertaken in the technology transfer program:

- In order for work to be undertaken for any government organization each of the following criteria must be satisfied:
 - a. Laboratory staff will not increase as a result of the additional work.
 - b. Laboratory facilities will not be added for non-DOD work.
 - c. Proposed work should relate to a laboratory's area of particular expertise and the laboratory should be a significant resource in the particular subject area.
 - d. A determination should be made that the laboratory's background, experience and facilities are such that private industry could not perform the work except at a significantly increased cost.
- The major emphasis of the Technology Transfer Consortium should be directed to:
 - a. The transfer or adaptation of existing technology, either directly, or after being subjected to adaptive engineering.
 - b. The preparation of documentation and technical assistance in those activities unique to the mission of the DOD laboratories.
- Work will be performed for private industry only on an exception basis, such as when the laboratory possesses unique facilities that are required and which are not available in the private sector.
- Description of the work to be accomplished and the funds to be transferred will normally be specified in a formal inter-agency agreement.
- All costs shall be recovered from the receiving government organization, including realistic overhead costs, except that cooperative developments on a shared cost basis are encouraged where there is a distinct military application.
- Laboratory production of hardware shall normally be limited to prototypes or test units required to prove feasibility.
- Adaptive engineering shall not be performed on technological innovations for which a patent application has been made by a private industrial firm unless permission is received in writing from that firm. Technical, consulting, and support services will not normally be furnished another agency on a continuing basis.

Pt. 555, App. A

32 CFR Ch. V (7–1–09 Edition)

- Work in the form of analytic services shall not normally be undertaken in areas where comparable expertise exists in com-

petitive industry. An exception to this provision is acceptable in areas of problem definition where existing Defense technology offers a unique potential solution.